

CHAIRMAN GRAVES: Yes.

MS. LAVALLE: And at several points both you and Commissioner Apple talked about incentives and the fact that this Commission has very strong incentives. And I want to make sure that AT&T's position is not misunderstood on that point that we do not believe that this Commission is without tools and authority and an ability to encourage local competition along.

What I do think is critical, just to clarify what our position was, is the incredible powerful adjunct to that authority that Section 271 has and I think we've seen that just in the time line that we can observe that has lead up to today. In a very compact period of time since Southwestern Bell let everyone know that they would be filing their application we've seen some tremendous advances, for instance; interconnection agreements have been approved, Cox filed an application for arbitration and has now been able to withdraw it. They've said they executed an interconnection agreement. AT&T has been struggling, struggling to get a joint filing to get the interconnection agreements between them resolved and presented to the Commission, we now appear to have agreed to some dates to have that happen. And our point is I believe that happened because we have a pending 271 application, that that really is a very strong and very powerful tool that this Commission should take advantage of.

1 rk 41

2 I want to make sure that is absolutely clear that we didn't
3 want that process to stop--

4 CHAIRMAN GRAVES: I understand.

5 MS. LAVALLE: --because we thought 271 was
6 working awfully well.

7 CHAIRMAN GRAVES: No, I understand. And the
8 fact of the matter is we now know how rapidly the incumbent
9 can move and we expect that to continue. And anything less
10 than that rapid handling of these issues should be brought to
11 our attention directly and we should be afforded the
12 opportunity to hold all market participants to the highest
13 standards of opening up the market. And I mean that
14 sincerely. If there are issues that parties feel like they
15 are not being dealt with, even if they don't want to allege
16 bad faith--and no one has today--but if they feel like there
17 is gaming of the process going on, bring it to our attention
18 because we know what can be done now. We've seen it. You're
19 absolutely right. We've seen a lot of movement. And quite
20 frankly I, for one, expect that to continue. And if it
21 doesn't we have the ability to bring some forces to bear and
22 we will continue to do that because I think that there's a lot
23 that can be done that we haven't really focused on and we need
24 to do a better job of encouraging that.

25 MS. LAVALLE: And my last point is--and I won't
take very much of the Commission's time--but I just wanted to

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2 make sure that for purposes of clarifying the parties'

3 positions when Your Honor was referring to interim number

4 portability I just want to make absolutely clear that the

5 position that we're referring to on the bottom of Page 17 of

6 the ALJ's report is a summary of AT&T's position. There it

7 wasn't just that AT&T didn't get what it wanted in the

8 arbitration but that a form of interim number portability

9 remote call forwarding, which this Commission ordered and said

10 that didn't actually be in the Act which required that they

11 did remote call forwarding, that upon specific request for

12 that very kind of interim number portability Southwestern Bell

13 could not deliver that successfully. And so I wanted to

14 defend the ALJ's report in that respect.

15 CHAIRMAN GRAVES: I understand, and to that

16 extent I would suggest to you that if it's something we've

17 ordered and you're being told you can't get it, come to us and

18 we'll find out what is really going on and resolve those kind

19 of issues. If that is something that's been, you know,

20 festering out there and you just can't seem to get off the

21 dime on those kind of issues where it's clear what we've said,

22 I mean, I sincerely mean it. I wonder why people haven't come

23 back and said: Look, you know, you told them to do this and

24 nobody is doing it. If that is really going on come on in and

25 we'll resolve it. If it's not or if it's just the threat of

coming to the Commission to get these kind of issues resolved

1 rk 43

2 and get people off the dime and moving, and apparently there
3 has been some movement lately in light of this pending
4 application. I think we can see people making value judgments
5 as to what's important and what isn't. To the extent that
6 there are issues like that out there come back and tell us and
7 we'll resolve them.

8 MS. LAVALLE: And the last point for
9 clarification I just wanted to raise was in terms of the
10 actual checklist and the requirement for cost based pricing,
11 is the Commission making any comment on that particular
12 requirement in the checklist in terms of being able to advise
13 or forward information to the FCC?

14 CHAIRMAN GRAVES: Well, we've addressed interim
15 cost based--cost numbers and we've addressed that all along
16 and we are in the process of determining on a more permanent
17 basis what those studies will be. But we can't pick any
18 number today and to wait until we pick a number would delay
19 this immeasurably in my mind. So, I mean, we've attempted to
20 address those issues. We haven't finalized it because it is
21 an ongoing fluent process.

22 MR. TOPPINS: Your Honor?

23 CHAIRMAN GRAVES: Mr. Toppins.

24 MR. TOPPINS: There was some discussion about
25 the Track A requirements. I think maybe we could simplify it
a little bit because all Southwestern Bell was asking for was

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2 that you report to the FCC what Brooks Fiber says they're
3 doing and it's that they are providing service to four
4 residential customers on a test basis, whatever the wording
5 is, as they declare it. That satisfies our needs. We know
6 that is going to be decided at the FCC ultimately.

7 CHAIRMAN GRAVES: Okay, well, we'll note your
8 comments for the record. Anything further? Mr. Gray,
9 anything of a procedural matter? Any gaping holes that we
10 need to fill here?

11 MR. GRAY: No, Your Honor.

12 CHAIRMAN GRAVES: Yes, sir.

13 VICE-CHAIRMAN ANTHONY: I was afraid you were
14 going to call the vote on the motion and I wanted to see if I
15 understood the motion. It's my understanding that the ALJ
16 said that they did not meet the Track A requirement and they
17 did not meet the fourteen points requirement.

18 CHAIRMAN GRAVES: Uh-huh.

19 VICE-CHAIRMAN ANTHONY: All right, and so in
20 that regard I understand that the motion reverses the
21 ALJ's position. In what regard did you uphold the ALJ's
22 position?

23 CHAIRMAN GRAVES: It's funny that you mention
24 the nine or so lines at the bottom of that page because that
25 was the first thing I underlined when I read the ALJ's report
and the language about you don't have to wait until every

1 rk 45

2 element is requested and used, it's not about--it's not a
3 quantification. That particular language I agree with and I
4 think that is appropriate and standard.

5 VICE-CHAIRMAN ANTHONY: All right, I think
6 that's--

7 CHAIRMAN GRAVES: And I agree with his analysis
8 of the Track A and the Track B--well, the Track B language.

9 VICE-CHAIRMAN ANTHONY: All right.

10 CHAIRMAN GRAVES: So as I previously stated
11 that I would move that we affirm in part and deny in part the
12 ALJ's recommendation and that we direct the staff to prepare
13 comments to the FCC indicating that in our opinion
14 Southwestern Bell has met the elements of Section 271 of the
15 Federal Act and I would vote aye.

16 VICE-CHAIRMAN ANTHONY: I'll vote against the
17 motion, noting once again that I would uphold the ALJ's
18 finding that the Track A requirements have not been met and
19 that the full fourteen point checklist requirements have not
20 been met. And I'll probably have a brief statement to that
21 effect as a dissenting opinion to the order. And in the way
22 of a short speech I'll say that this State of Oklahoma has had
23 competition in the interLATA market for some time and we've
24 been proud of this streamline procedure that we have used to
25 facilitate those competitors. I hope that Southwestern Bell
in the very near future is a full participant in that market

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2 which is already competitive. I also hope that they fully
3 meet the fourteen point requirements and think that the
4 indications from the bench that we're not wishing to entertain
5 any gamesmanship about foot dragging or so forth are unanimous
6 that we, indeed, hope that approval if it comes from the FCC
7 in the interLATA arena will not slow down the interconnection
8 and the access and all of the other components that need to be
9 established so that Oklahoma will have workable competition in
10 the local market.

11 CHAIRMAN GRAVES: Okay, if there's nothing
12 further. --

13 VICE-CHAIRMAN ANTHONY: Wait--

14 CHAIRMAN GRAVES: Oh, I'm sorry. I thought you
15 were moving forward to get out of here.

16 COMMISSIONER APPLE: Well, I haven't voted
17 yet. We have a tie here.

18 VICE-CHAIRMAN ANTHONY: He can change his mind.

19 CHAIRMAN GRAVES: Well, that's true. That's
20 true.

21 COMMISSIONER APPLE: So before I do I'll keep
22 you in suspense momentarily. This is a great time to be doing
23 what we're doing, isn't it? Few generations--and I'll repeat
24 something I say to myself and probably all of you more than
25 once--but few generations truly have a chance to actually
re-mold and redirect things that impact everyone's lives and

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that's what we're doing. I continually hear ringing in my ear a comment made by a constituent that once called me and saying to me very loudly: You people mess around with my life. And that's been my litmus test of how I look at all of the decisions I make, am I messing around in a way that makes their lives more positive or not.

And so in this case I cannot make a decision that I feel is in the better interest of Oklahoma than to say that we have looked at it. Are there questions? Yes. Are there reasons that you could not support this? Yes. But the overwhelming is that immediately the people of Oklahoma will start experiencing the opportunities that we're directed to provide and that is competition. And I will see that vigorously that it proceeds all the way through to the most remote parts of Oklahoma. And as most of you know I have a very strong feeling about where we are with parts of Oklahoma in this equation.

So I'm very secure this morning in saying that we're doing the right thing on a timely basis that gets this motion. And so with that I vote aye on the motion and thank all of you for your input and for your considerations in giving us the information necessary to arrive at these decisions.

CHAIRMAN GRAVES: Mr. Gray.

MR. GRAY: I just wanted one point of

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clarification. First of all, I need to know if the
Commissioners decide to submit comments that go to the FCC
I'll need to know that so we can coordinate that.

VICE-CHAIRMAN ANTHONY: Mine will be in the
form of a concurring opinion to the order and the order will
be part of the record.

MR. GRAY: Yes, sir.

CHAIRMAN GRAVES: I'll probably file a separate
additional comments to the FCC. Anything else? If not we
will close the record. Thank you all very much.

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STATE OF OKLAHOMA)

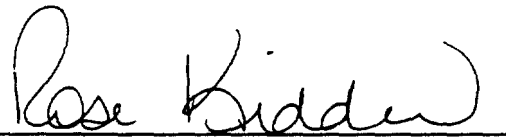
)SS.

COUNTY OF OKLAHOMA)

REPORTER'S CERTIFICATE

I, Rose M. Kidder, Official Court Reporter, within
and for the State of Oklahoma, do hereby certify that the
above and foregoing is a true and complete transcript of the
record made before the Corporation Commission of the State Of
Oklahoma in Cause Number PUD 970000064 heard on April 25,
1997.

IN WITNESS WHEREOF, I have set my hand and seal as
such Official Reporter on this, the 25th day of April, 1997.



Rose M. Kidder, CSR

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF ERNEST G. JOHNSON,)	
DIRECTOR OF THE PUBLIC UTILITY)	
DIVISION, OKLAHOMA CORPORATION)	CAUSE NO. PUD 970000064
COMMISSION TO EXPLORE THE)	
REQUIREMENTS OF SECTION 271 OF)	ORDER NO. <u>411817</u>
TELECOMMUNICATIONS ACT OF 1996.)	

HEARINGS: April 23 and 25, 1997, before the Commission *en banc*

APPEARANCES: Jack P. Fite and Kathleen S. Lavalley, Attorneys
AT&T Communications of the Southwest, Inc.
Roger K. Toppins and Austin Schlick, Attorneys
Southwestern Bell Telephone Company
Martha Jenkins and Nancy Thompson, Attorneys
Sprint Communications Company L.P.
Ronald D. Stakem and Stephen F. Morris, Attorney
MCI Telecommunications Corporation
Jennifer Johns, Attorney
Cox Communications
Fred Gist, Attorney
Brooks Fiber Communications
Mickey S. Moon, Assistant Attorney General
Office of the Attorney General, State of Oklahoma
John Gray, Senior Assistant General Counsel
Public Utility Division, Oklahoma Corporation
Commission

FINAL ORDER

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("Commission") being regularly in session and the undersigned Commissioners being present and participating, there comes on for consideration and action, the appeal of Southwestern Bell Telephone Company ("SWBT") to the report of the Administrative Law Judge ("ALJ"). Specifically, the ALJ found that SWBT had not satisfied the requirements of Section 271 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("the Act").

The Commission finds that it has jurisdiction over the above-entitled cause pursuant to Section 151 et seq. of the Act, Article IX, Section 18, of the Oklahoma Constitution, 17 O.S. Section 131 et seq. and the Oklahoma Administrative Code 165:55. Further, the Commission finds that the report of the ALJ should be rejected in part and approved in part. The Commission further finds that the above-entitled matter is unique in that the Commission is only seeking to gather information to consult with the Federal Communications Commission ("FCC") as provided for in Section 271(d)(2)(B) of the Act. The Commission is not being asked to authorize SWBT to provide interLATA service, but only to consult with the FCC. Therefore, the Commission finds that this matter is more in the nature of a Notice of Inquiry and the application of strict evidentiary rules is not appropriate.

The Commission finds that the ALJ's recommendation that SWBT qualifies to proceed under Track "A" (Section 271(c)(1)(A) of the Act) is fair and reasonable and should be adopted by the Commission. The Commission finds that Brooks Fiber meets the requirement of Section 271(c)(1)(A) of the Act. Further, the Commission finds that the ALJ's determination that SWBT does not have to wait for every element on the competitive checklist to be requested and used and the ALJ's determination that no particular quantity or quality level of competition must be reached before SWBT will be found to meet the requirements of Section 271(c) is fair, reasonable, and in the public interest and therefore should be adopted by the Commission. However, the Commission rejects the ALJ's determination that SWBT has not met the competitive checklist set forth in Section 271(c)(2)(B) of the Act. The Commission takes judicial notice that SWBT has entered into a number of interconnection agreements that have been approved by the Commission and has a statement of

generally available terms and conditions ("SGAT") that became effective on March 17, 1997 by reason of Section 252(f)(3) of the Act. (The Commission notes that it has not approved SWBT's SGAT, but its review will take place in Cause No. PUD 970000020). The Commission finds that each of the competitive checklist items are either provided to or generally offered to competitive local exchange companies through approved interconnection agreements with such companies or through SWBT's effective SGAT. The Commission finds that the failure of some companies, even those with approved interconnection agreements, to enter the Oklahoma local exchange market, is due to internal business decisions of these companies and is not due to SWBT's failure to make available all of the items contained in the checklist. The Commission finds it significant that neither Brooks nor another competitive local exchange provider has filed an application or complaint alleging SWBT has refused to provide a service requested by the competitive local exchange company. Further, the Commission finds that no complaints or concerns were not brought to the Commission's attention until the Commission had before it SWBT's request relating to interLATA relief.

The Commission further finds that the public interest would be served by SWBT proceeding with its request for interLATA authority. Full competition in the interLATA long distance market would be consistent with and further this Commission's strong policy of opening up all markets to competition. The Commission also finds that it is equally in the public interest for competitive local exchange providers to proceed with their entry into the Oklahoma local exchange market. The Commission finds that the entry of competitors in all areas of the telecommunications markets will best serve the public interest.

Finally, the Commission concludes that it should file Comments with the FCC consistent with the foregoing findings.

IT IS THEREFORE THE ORDER OF THE OKLAHOMA CORPORATION COMMISSION that the report of the Administrative Law Judge is hereby adopted in part and rejected in part consistent with the Commission's findings above and the Commission Staff is directed to prepare written comments for filing with the FCC in CC Docket No. 97-121 consistent with the findings contained herein.

OKLAHOMA CORPORATION COMMISSION


CODY L. GRAVES, Chairman

Dissenting opinion attached

BOB ANTHONY, Vice Chairman


ED APPLE, Commissioner

DONE AND PERFORMED THIS 30TH DAY OF April, 1997.


CHARLOTTE W. FLANAGAN, Secretary

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Application of Ernest G. Johnson,
Director of the Public Utility
Division, Oklahoma Corporation
Commission to Explore the
Requirements of Section 271 of
The Telecommunications Act of 1996.

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Cause No. PUD 9700000064

FILED
APR 30 1997

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

DISSENTING OPINION OF COMMISSIONER BOB ANTHONY

Before the official start of the Oklahoma Land Run of April 22, 1889, anxious "Sooners" seeking new territory jumped the gun despite provisions of federal law. Now, in a subsequent chaotic setting, the Oklahoma Corporation Commission (OCC) has witnessed Southwestern Bell Telephone Company (SWBT) trying to jump the gun on expanding into the long distance market despite the provisions of federal law. The Sooners got away with it in 1889, but this time the Federal Communications Commission (FCC) gets to decide what level of law enforcement will apply.

Maybe as it consults with us, the FCC should know more of our frontier setting. First of all, the sound of the cannon blast at noon that started the Oklahoma Land Run cannot compare to

the noise of a recent advertising campaign waged by SWBT about the merits of this case while it has been pending before our agency. Adding to the chaos, a companion legislative matter supported by SWBT to deregulate local service has been accompanied by additional advertising as well as telephone companies hiring even more lobbyists. (SWBT now reports more registered lobbyists than any other entity doing business in Oklahoma.)

Furthermore, I suggest the FCC would have found it easier to see through the dust cloud produced by the horses and wagons at the Oklahoma Land Run than to see any substantive facts and credible evidence supporting the majority decision in this case.

Respectfully, I support the Report and Recommendations of the Oklahoma Corporation Commission Administrative Law Judge, the position of the Commission's own Public Utility Staff, the arguments of the Oklahoma Attorney General, and the testimony of the various potential Competitive Local Exchange Carriers that SWBT is not providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service to residential and business subscribers consistent with Section 271(c)(1)(A) of the Telecommunications Act of 1996 (The Act). I too agree with those parties that Track B does not apply.

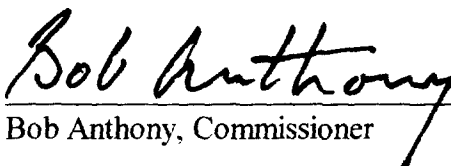
In my opinion, the majority consults with the FCC by saying SWBT should be allowed into the interLATA market even though SWBT has not really met the legal requirements of either Track A or the fourteen point competitive checklist. The FCC must note that four of the checklist items were referenced in the Report and Recommendations of the Administrative Law Judge as being deficient and serving as barriers to successful competition in the local market. The majority

confuses SWBT's ability to comply with actual compliance.

In addition, I believe the FCC will have great concerns about the procedural and evidentiary quality of our state commission proceeding in this matter. The Application filed on February 6, 1997, mentioned a "docket" and stated, "The FCC and DOJ recommended that a full evidentiary hearing be conducted by the various state commissions and that, thereafter, the record in the respective cause be submitted to them for their review." Sadly, the FCC will not find where the OCC conducted a full evidentiary hearing. SWBT submitted comments to the record but did not give testimony or make a witness available for cross-examination. Also, the hearing before the commissioners en banc did not follow our customary procedures regarding appeal hearings or our rules about items allowed into the record. For the majority to declare this matter to be legislative instead of judicial does not justify failing to provide a proper evidentiary record to the FCC.

Some would suggest that competition in the long distance interLATA market in Oklahoma does not exist because SWBT is not currently allowed to participate in this market. To the contrary, vigorous competition already exists in providing long-distance interLATA service. The question before this Commission in this case is whether SWBT has complied with the requirements of The Act regarding its authority to become another competitor in the long distance market. I do not believe the evidence, comments, and legal arguments presented in this case demonstrate that SWBT has met the criteria of The Act. Therefore, I respectfully recommend that the FCC not allow SWBT to provide long distance service in the interLATA market in Oklahoma at this time.

Although SWBT's current application to the FCC is premature, I strongly believe SWBT should be allowed to compete in the interLATA market in Oklahoma as soon as feasible. However, to allow such an opportunity for SWBT right now would indicate telephone customers in Oklahoma are currently being provided real choices regarding selection of local service providers. Unfortunately, it appears SWBT at this time has only trivial competition from facilities-based providers and has not adequately complied with the technical and pricing requirements for interconnection and unbundled network elements set forth in The Act. I hope SWBT will move quickly to meet the competitive standards of The Act required for SWBT to participate in the interLATA telecommunications market in Oklahoma. Compliance by SWBT will allow fairness to competitors in the local exchange market and greater choice to telephone customers.


Bob Anthony, Commissioner

April 30, 1997

LOCAL EXCHANGE SERVICES

4. LOCAL EXCHANGE SERVICES

4.1 DESCRIPTION

The Company's Local Telephone Service provides a Customer with the ability to connect to the Company's switching network. The Company's service can not be used to originate calls to other telephone companies caller-paid information services (e.g., 900, 976). Calls to those numbers and other numbers used for caller-paid information services will be blocked by the Company's switch.

4.2 GENERAL REGULATIONS

4.2.1 Service Area: Where facilities are available, the Company's service area consists of the area served by the following SWBT Tulsa City-area central offices:

Central, Windsor, Victor, University, Skyline and Mutual.

4.2.2 Local Calling Areas: The local calling area for all Customers served by the Company shall include the entirety of the Tulsa City Wide Area Calling Plan as established by applicable orders of the Oklahoma Corporation Commission.

4.3 LOCAL CALLING SERVICE

4.3.1 Description

Local Calling Service provides a customer with the ability to originate calls from a Company-provided access line to all other stations on the public switched telephone network bearing the designation of any central office of the exchanges, areas, and zones included in the caller's local calling area as specified applicable laws and regulations established by the State of Oklahoma, in effect and as amended.

ISSUED: August 8, 1996

EFFECTIVE: October 8, 1996

By: D. Craig Young, President
425 Woods Mill Road, Ste. 300
Town & Country, MO 63017

FILED

MAR 11 1997

**BEFORE THE CORPORATION COMMISSION
OF THE STATE OF OKLAHOMA**COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF ERNEST G. JOHNSON,)
DIRECTOR OF THE PUBLIC UTILITY)
DIVISION, OKLAHOMA CORPORATION)
COMMISSION, TO EXPLORE THE)
REQUIREMENTS OF SECTION 271 OF)
THE TELECOMMUNICATIONS ACT OF 1996)

CAUSE NO. PUD 970000064

**INITIAL COMMENTS OF BROOKS FIBER COMMUNICATIONS OF OKLAHOMA,
INC., AND BROOKS FIBER COMMUNICATIONS OF TULSA, INC.**

Brooks Fiber Communications of Oklahoma, Inc., and Brooks Fiber Communications of Tulsa, Inc., (hereinafter collectively referred to as "Brooks") submits the following comments in the above-captioned Cause.

INTRODUCTION

These initial comments are sub-divided into three sections. The first section provides a brief summary of Brooks's history of operations and current operational status in Oklahoma. The middle section focuses on Brooks' Oklahoma interconnection agreement with SWBT and interconnection implementation activity thereunder. The final section reviews the key provisions of the Telecommunications Act of 1996¹ related to Bell Operating Company ("BOC") entry into interLATA services.

**1. SUMMARY OF BROOKS OKLAHOMA HISTORY AND CURRENT
OPERATIONAL STATUS.**

While the Commission is familiar with the basic facts concerning Brooks' status in Oklahoma, a brief summary of those facts is provided for the record, as follows: Brooks obtained its initial certification in Oklahoma as a competitive access provider in April, 1996, with authority to provide dedicated intra-exchange and inter-exchange services - i.e., special access and private line services. In August, 1996 that authority was expanded by the Commission's grant to Brooks of authority to operate as a competitive local exchange company ("CLEC"), providing all types of intrastate switched services, including switched local exchange (i.e., dial-tone) service. Brooks Fiber of Communications of Tulsa, Inc., operates in Tulsa and holds authority to provide intrastate services in Oklahoma within the territories of Southwestern Bell Telephone Company ("SWBT") and General Telephone Company ("GTE"), while Brooks Fiber Communications of Oklahoma, Inc., operates in Oklahoma City and holds authority to provide intrastate services in the service territory of SWBT. Brooks has intrastate dedicated and switched services tariffs which have become effective in Oklahoma.

¹ Pub. L. No. 104-104, 110 Stat. 56 (to be codified at 47 U.S.C. Secs. 151 et seq.)

Brooks provides telecommunications services through SONET-based fiber optic transmission systems tied into a digital host switch. Currently Brooks' Oklahoma networks consist of a 221 mile transmission system in Tulsa, and a 44 mile system in Oklahoma City. Brooks has deployed one Lucent 5ESS digital host switch each in its Tulsa and Oklahoma City networks, and those switches became operational in January, 1997.²

Brooks has a signed, Commission-approved interconnection agreement with SWBT covering operations in Oklahoma. The interconnection agreement was executed on August 29, 1996 and approved by the Commission by its orders dated October 2, 1996. Shortly after signing the interconnection agreement, Brooks began the process of working with SWBT to implement the physical interconnection of networks (trunking) and other processes necessary for the passage of traffic between Brooks and SWBT. That initial interconnection process was completed in January, 1997, when Brooks and SWBT began exchanging "live" traffic.

Brooks commenced offering switched local exchange services to its first group of customers in January, 1997, once its Oklahoma switches became operational and initial network interconnection and associated systems were implemented with SWBT. At this early stage, Brooks Oklahoma operations are limited - Brooks is currently providing switched local exchange service to 13 business customers in Oklahoma City (6 via direct on-net connections to Brooks' fiber optic transmission rings, 6 through leased SWBT dedicated T-1 facilities and 1 through resold SWBT ISDN service), and to 7 business customers in Tulsa (2 via direct on-net connections to Brooks fiber optic transmission rings and 5 through leased SWBT dedicated T-1 facilities) and to 3 residential customers in Tulsa and 1 residential customer in Oklahoma City (all through resale of SWBT's local exchange service, and all currently on a test-basis). As explained further below, Brooks' expansion of service to a significant number of customers depends upon its ability to gain access to and utilize leased unbundled loop facilities of SWBT, a prerequisite for which is completion of physical collocations at various SWBT central offices.

To provide context to the discussion of Brooks' current status and plans for operations in Oklahoma, it is important to understand the several potential methods available to a CLEC for offering originating service to customers. Generally, there are three primary methods: (a) on-net origination (i.e., where customers directly connect to the transmission facilities of the CLEC; (b) use of incumbent LEC unbundled network elements (including unbundled loops) in combination with the CLEC's transmission facilities; and (c) resale of the incumbent CLEC's services (i.e., where dial-tone is provided by the incumbent CLEC).

With respect to on-net origination, it is important to recognize that the fiber optic networks of CLEC's like Brooks do not approach the originating reach of the pre-existing, ubiquitous loop/switching/interoffice transmission networks of the incumbent local exchange carriers, which have been deployed in the past under the protective environment of a sanctioned monopoly. While Brooks has been expanding its fiber optic networks across the country and will continually evaluate the economic feasibility of further expansion, there is no realistic scenario under which the network of a fiber optic ring-based CLEC like Brooks will - in and of itself - approach the ubiquitous originating reach of SWBT's network. This fact has enormous

² Brooks also plans to deploy remote switches in a number of the physical collocations which are currently under construction at SWBT central offices in Oklahoma City and Tulsa.

implications for Brooks' business operations and for a realistic evaluation of the current and future competitive environment in Oklahoma. It means that Brooks and CLEC's like it are highly dependent upon the incumbent LEC (through lease of the incumbent's unbundled network elements and/or resale of the incumbent's retail services) to expand the CLEC's originating reach beyond the finite limits of its fiber optic rings.

While some carriers may intend to operate by relying primarily or exclusively on resale of the incumbent CLEC's local exchange service for their originating reach, Brooks intends to operate as facilities-based provider – i.e., a CLEC that deploys its own transmission (and, in Brooks' case, switching facilities) and combines those facilities with unbundled network elements of the incumbent CLEC. Brooks will use resale of SWBT's local exchange service to some extent, but only as a secondary method to supplement its primary mode of operation of combining leased³ SWBT unbundled loops with Brooks transmission and switching facilities. As discussed above, Brooks will also provide service on an on-net basis for those business customers located in close proximity to its fiber optic transmission facilities, but it is access to and use of SWBT's unbundled loops which will significantly expand Brooks ability to offer local exchange service in Oklahoma City and Tulsa.⁴

At this point, however, Brooks is not yet in a position to begin utilizing SWBT's unbundled loop facilities in Oklahoma. This is because Brooks will interconnect SWBT's unbundled loops to Brooks' network through collocations (primarily physical collocations⁵) being deployed at various SWBT central offices (six in Oklahoma City and five in Tulsa), and to date none of these collocations has been completed.⁶ Brooks has had collocation applications in

³ It should be noted that the leases of unbundled loops from SWBT are not long-term in nature – i.e., Brooks has the right to use a particular unbundled loop contingent upon the respective end-user's continued purchase of service from Brooks at that particular location and upon Brooks payment of associated charges to SWBT. Brooks does not obtain title to any of the unbundled loop facilities, nor the right to perform its own maintenance or to self-provision the facilities.

⁴ As noted above Brooks has utilized SWBT-provided dedicated T-1 access (sometimes referred to as "type 2" access) to originate dial-tone service for several customers. This approach has been implemented as a partial, stopgap measure prior to the availability of SWBT unbundled loops. This "type 2" approach to offering dial-tone service requires deployment of special network equipment by Brooks and is only economically feasible for providing service to certain customers.

⁵ Physical collocation involves CLEC leasing of dedicated space within an incumbent LEC central office and deployment of transmission (and, in some instances, remote switching) equipment therein for use in obtaining access to unbundled network elements and for interconnection. In physical collocation arrangements, the CLEC purchases and owns the transmission (and, if applicable, the remote switching equipment) located in its collocation space.

⁶ Brooks has pre-existing virtual collocations at one SWBT central office each in Oklahoma City and Tulsa. Those arrangements are provided by SWBT pursuant to its interstate virtual expanded interconnection tariff, which is subject to an FCC investigation regarding the reasonableness of its pricing. These SWBT tariffed virtual collocation arrangements differ in important respects from physical collocation arrangements. With tariffed virtual collocation, the point of interconnection normally is outside of the central office, deployment of remote switching equipment is not permitted, and the interconnector designates but does not own the transmission equipment. Brooks has found SWBT's interstate tariffed virtual collocation to be extremely expensive compared to comparable virtual collocation from most other BOC's. This type of virtual collocation is not usable by Brooks for unbundled loop access due to both network and economic feasibility considerations. Brooks has applications pending to convert these virtual collocations to physical collocation arrangements. Brooks is also in the process of negotiating a contract with SWBT for a different type of virtual collocation – where transmission equipment could be purchased by Brooks and located in common areas of central offices. This would provide Brooks an additional collocation option in central